

9802 006013
RECEIVED
AND
FILED

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR KENT COUNTY

IN THE MATTER OF THE PETITION OF)
RONALD E. ROBERTS JR.)

C.A. No. KENT COUNTY
Habeas PROTHONOTARY

The State of Delaware,

03M-06-010 WUW

You are Commanded:

To have RONALD E. ROBERTS JR. who is allegedly detained in your custody, before the Superior Court of the State of Delaware, at the County Court House at Dover, Delaware immediately after the receipt of this Writ; and to abide any order which the Court shall make concerning Petitioner.

And further, to certify fully in writing under oath the true cause of said detention, and to have there a copy of all process or orders, if any, under which he is detained and also this Writ.

Prothonotary

Dated: _____

To the above named Respondent:

In case of your failure to produce RONALD E. ROBERTS JR. as above commanded, and fully certify in writing under oath the true cause of his detention, with a copy of all process or orders, if any, under which he is detained, within 3 days after service hereof upon you if the place where he is detained is not more than 20 miles from the County Court House, or within 6 days if such place is more than 20 miles, you may be adjudged to be in contempt of court.

Prothonotary

State of Delaware)

New Castle County)

ss.

_____, Sheriff of _____
County, deposes and says that he served personally upon _____
Nardai T. Carroll the original writ of
Habeas Corpus of which the within is a true copy, by leaving the
original writ with _____

on _____
19____.

SWORN TO AND SUBSCRIBED before me, _____
19____.

Prothonotary

IN THE Superior COURT OF THE STATE OF DELAWARE
IN AND FOR DELT COUNTY

IN THE MATTER OF

Donald E. Proctor Jr.
for a writ of habeas corpus.

C.A. No.

MEMORANDUM IN SUPPORT OF WRIT OF HABEAS CORPUS

The above defendant submits this memorandum in support of his petition for writ of habeas corpus. Petitioner states the following in support:

1. The criminal action number in this case is 02-06607-I 3498-

2. Your petitioner is being unlawfully restrained of his liberty, in violation of the laws of the State of Delaware, by reason of (1) I WAS EXTRICATED TO DELAWARE FROM FLORIDA AND I WAS GIVEN A HABITUAL OFFENSE SENTENCE 11/3/21/4
(2) UNDER 11 DELC § 2549 HABITUAL OFFENSE CANNOT BE APPLIED TO ME FOR USAGE OF THE EXTRADITION ACT.

(3) SENTENCE IS NOT VALID ON ITS FACE*.

WHEREFORE, petitioner prays the petition issue and the writ granted.

DATED & MAILED: 6-8-03

Donald E. Proctor Jr.
Delaware Correctional Center
Smyrna, DE 19977

Dated: JUNE 8, 2003

* JONES V. ANDERSON 183 A.2d 1111, 1178 (1962); CURRAN V. WOODLI 104 A.2d 1111 (1954); KERR V. FINKBEINER 757 F.2d 604, 607 (11th Cir 1985); KNOX V. N.Y. DEP'T OF CORR. 34 F.3d 964, 967 (10th Cir 1994).

SUPERIOR COURT
OF THE
STATE OF DELAWARE

June 13, 2003

WILLIAM L. WITHAM, JR.
JUDGE

KENT COUNTY COURTHOUSE
38 THE GREEN
DOVER, DELAWARE 19901
TELEPHONE (302) 739-5332

Mr. Ronald E. Proctor - SBI #00163750
Delaware Correctional Center
1181 Paddock Road
Smyrna, Delaware 19977

Re: **Ronald E. Proctor v. State of Delaware**
ID No. 9802006513
C.A. No. 03M-06-010

Dear Mr. Proctor:

The Court has reviewed your petition for writ of *habeas corpus* which was filed with the Prothonotary on June 12, 2003.

The extraordinary remedy of *habeas corpus* is not available where the commitment is regular on its face. *Jones v. Anderson*, Del. Supr., 183 A.2d 177, 178 (1962), *citing*, *Curran v. Woodley*, Del. Supr., 104 A.2d 771 (1954).

Currently you are being lawfully held pursuant to an Order of this Court dated October 26, 2002 and modified on March 21, 2001. Your extradition was based upon open charges and you were not deemed an habitual offender until sentencing on those charges. Wherefore, your petition for writ of *habeas corpus* is *denied*.

IT IS SO ORDERED.

dmh

oc: Prothonotary
xc: Mr. Ronald E. Proctor - DCC
Attorney General's Office
Public Defender's Office
DCC-Inmate Records Supervisor
File



KENT COUNTY
PROTHONOTARY

03 JUN 13 PM 2:03

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6/14/03